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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

GRACE LAPHAN 465 Conger Avenue Collingswood, NJ. 08108 Plaintiff, vs. **SGT. WILLIAM HAINES, SGT. MICHAEL LANGDALE, CHIEF DAVID MONTELLA, OFFICER GEORGE MOORE** 935 N. Providence Road Media, PA. 19063 **JOHN BURGY** 211 Moria Place Aston, PA. 19014 and **UPPER PROVIDENCE TOWNSHIP** 935 N. Providence Road Media, PA. 19063 Defendants.	**CIVIL ACTION NO.: 14-4063** **District Judge** **AMENDED COMPLAINT FOR VIOLATIONS OF THE 4[TH] AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES, SECTION 1983 OF THE CIVIL RIGHTS ACT, FALSE ARREST, FAILURE TO INVESTIGATE, FAILURE TO TRAIN DISCLIPLINE AND SUPERVISE UNDER MONNELL, CONSPIRACY, MALICIOUS PROSECUTION, INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

Plaintiff, Grace Laphan, by way of Complaint against defendants says:

PARTIES

1. Plaintiff, Grace Laphan, is an adult individual and citizen of the State of New Jersey, residing in Collingwood.
2. Defendant, Upper Providence Township, was and still is a domestic municipal corporation duly organized and existing under and by virtue of the laws of the

State of Pennsylvania, with a principal place of business located at 935 North Providence Road, Media, PA. 19063.

3. Defendants, William Haines, Michael Langdale, David Montella and George Moore, were at all times relevant employees of the defendant, Upper Providence Township. At all times herein mentioned, defendants William Haines, Michael Langdale, David Montella and George Moore, were acting under the color of law and their individual capacity as police officers of the defendant, Upper Providence Township.

4. Defendant, John Burgy, is an adult individual and citizen of the State of Pennsylvania, residing in Aston.

JURISDICTION AND VENUE

5. The Court has jurisdiction over the lawsuit because the action arises under the Laws and Constitution of the United States, in particular, the Fourth Amendment and 42 U.S.C.A. § 1983. Plaintiff was deprived of her rights secured to her under the Constitution and the laws of the United States including, but not limited to, her right to be secure in her person and property and be free from unlawful arrests and seizures, when no probable cause exists. Plaintiff, Grace Laphan was arrested and charged, without probable cause. While being subjected to these violations, she suffered and sustained severe and permanent injuries to her person. Plaintiff, Grace Laphan, was falsely charged without probable cause and was falsely and maliciously prosecuted without any cause or legal justification.

6. The Court has supplemental jurisdiction under 28 U.S.C § 1367 over plaintiff's claims arising under State law, including but not limited to violations of her State

rights against defendants for, false arrest, failure to investigate, willful misconduct, conspiracy, malicious prosecution, and intentional infliction of emotional distress because these claims are so related to the claims within the Court's original jurisdiction that they form part of the same case or controversy under Article 3 of the United States Constitution.

7. Venue is proper in this Court pursuant to 28 U.S.C. §1391, as the claims at issue arose in this judicial district.

COMPLAINT
GENERAL ALLEGATIONS

8. The above paragraphs are repeated and incorporated herein by reference as if set forth in full.

9. Plaintiff and Defendant, John Burgy, jointly owned a residence located at 375 South Ridley Creek Road, Media, PA. 19063 (hereinafter referred to as "the property") which they bought together in 2002.

10. Sometime in 2011, the parties dissolved their relationship and litigation was initiated by both the plaintiff and Burgy regarding the division of "the property."

11. On December 29, 2011, plaintiff went to "the property" to remove personal items. Plaintiff inadvertently, by mistake, also removed some of Burgy's personal property.

12. Additionally, on December 29, 2011, defendant Burgy went to "the property" to retrieve personal property and noticed certain items that were missing which plaintiff had inadvertently removed. After noticing the missing items, Burgy called The Upper Providence Police and reported a burglary had taken place and that plaintiff was the perpetrator.

13. Shortly thereafter, defendant Officer Moore arrived at "the property" an instructed Burgy that the "the property" was jointly owned and that there was an agreement between Burgy and plaintiff to remove personal items from the residence. Moore also instructed Burgy that since "the property" dispute was a domestic issue, no criminal charges would be sought against the plaintiff. Officer Moore then contacted plaintiff who told Moore that she intended to return Burgy's personal items on January 5, 2012 at the Delaware County Court of Common Pleas where a hearing was scheduled regarding the litigation over "the property."

14. On January 11, 2012, defendant Officer Moore meet plaintiff at "the property" regarding an alarm code being changed by defendant Burgy without plaintiff's authorization. Plaintiff also showed Officer Moore that a majority of the furnishings in "the property" had been removed. Moore then advised plaintiff that "this is a civil issue and to contact her attorney in the morning."

15. On June 20, 2012, Judge Charles B. Burr, of the Delaware County Court of Common Pleas entered an order stated that defendant Burgy shall, within ten days of the above mentioned order, vacate "the property" immediately, return all furniture he wrongfully removed from "the property," return all personal property to the plaintiff including her diplomas and family photographs, remove all his debris, materials, supplies and equipment which he allowed to accumulate on the "the property" and shall endorse and turn over to the plaintiff a insurance proceeds check in the amount of $35,516.03, so that it would be applied to the mortgage on "the property." that "the property" would be listed for sale

immediately ***and that plaintiff shall be granted sole access to the property to prepare it for sale.***

16. On June 28, 2012, the plaintiff went to the Upper Providence Police Department and gave a copy of the above mentioned, June 20, 2012, court order to defendant Officer Langdale. Plaintiff also told defendant Langdale that defendant Burgy had vacated "the property" with exception of the garage. Plaintiff also told Officer Langdale that she wanted the police to have a copy of the order in the event that an incident occurred between her and Burgy.

17. On July 6, 2012, defendant Burgy called the Upper Providence Police and advised defendant Officer Haines that plaintiff was illegally removing items from "the property." Defendant Officer Moore then called Burgy and advised him of the court order which evicted him from the property and ***told Burgy to stay away from the property or he would be arrested. Additionally, Burgy was advised by defendant Officer Haines that the order allowed the plaintiff to clear the property for sale.***

18. Additionally on July 6, 2012, defendant Officer Haines was contacted Assistant District Attorney Chris Dirisoto, ***who advised Officer Haines that any vehicles on the property, regardless of title, could be removed by plaintiff to clear the property for sale and that plaintiff would have to safeguard the vehicles which she had done per the terms of the order.*** Defendant Officer Haines then called plaintiff and requested that she return the vehicles to the owners and if not possible to safeguard the vehicles until they could be returned.

19. On July 7, 2012, at approximately 10am, defendant Officer Moore observed defendant Burgy removing large amounts of items from "the property." Burgy was advised by numerous officers, including defendant Officer Moore that Burgy was in violation of the June court order but the officers, including defendant Moore, only suggested to Burgy to stop removing items from "the property" ***and did not arrest Burgy.***

20. Later that same day, at approximately 4pm, defendant Burgy was again illegally removing items from "the property." Defendant Officer Moore again confronted Burgy but did not arrest Burgy. Officer Moore then notified plaintiff that Burgy had been on "the property" illegally taking items.

21. After being notified that Burgy had been illegally taking items from "the property," plaintiff went to "the property" at approximately 7pm on July 7, 2012, and began removing defendant Burgy's personal property, including motor vehicles, and placing said personal property in storage until such time as "the property" was sold and defendant Burgy endorsed and turned over to the plaintiff a insurance proceeds check in the amount of $35,516.03 per the court order mentioned above.

22. On July 7, 2012, plaintiff gave a copy of a Protection from Abuse Order, signed by District Judge Diane Holefelder, to Officer Gary Essaf of the Upper Providence Police listing defendant Burgy as the subject of the stay away order.

23. On July 17, 2012, using his influence and personal relationship with defendant Chief David Montella, defendant Burgy was able to convince defendants Montella, Haines, and Langdale to file an illegal criminal complaint against the

plaintiff charging her with Felony Theft by unlawful Taking, Felony Receiving Stolen Property, and Misdemeanor Unauthorized use of Motor Vehicles.

24. On March 5, 2013, the plaintiff was found not guilty of all of the above mentioned charges by Delaware County Court of Common Pleas Judge John Capuzzi.

COUNT I
PLAINTIFF GRACE LAPHAN VS. OFFICERS WILLIAM HAINES, MICHAEL LANGDALE, DAVID MONTELLA AND GEORGE MOORE
THE RIGHT OF PEOPLE TO BE SECURE IN THEIR PERSONS UNDER THE 4th AMENDMENT OF THE UNITED STATES CONSTITUTION
FALSE ARREST AND MALICIOUS PROSECUTION UNDER SECTION 1983, CIVIL RIGHTS ACT

25. The allegations contained above are incorporated herein as though fully set forth.

26. The unlawful criminal arrest and prosecution of plaintiff by defendants' on July 6, 2012, constitute violations of plaintiff's constitutionally protected right to be secure in her person as provided by the 4th Amendment of the United States Constitution.

27. The arrest of plaintiff, by defendants, was carried out unlawfully, intentionally and maliciously, without just or probable cause, for the express purpose of trying to justify the illegal false arrest and malicious prosecution of plaintiff.

28. The arrest of plaintiff by defendants, violated her rights under the United States Constitution and the Laws of the State of Pennsylvania.

29. The actions of defendants as police officers were committed under color of and authority of defendant Upper Providence Township and its police department, and while acting in their individual capacity as police officers. The actions or inactions of the defendant police officers recklessly disregarded and therefore

deprived plaintiff of her rights under the Laws and Constitution of the United States, in particular, the Fourth Amendment and 42 U.S.C.A. § 1983, including but not limited to the right to be secure in this person, to be free from unlawful arrests.

COUNT II
PLAINTIFF GRACE LAPHAN VS. UPPER PROVIDENCE TOWNSHIP FAILURE TO TRAIN, SUPERVISE AND DISCIPLINE DEFENDANTS WILLIAM HAINES, MICHAEL LANGDALE, DAVID MONTELLA AND GEORGE MOORE UNDER MONNELL

30. The foregoing paragraphs are incorporated in this Count but will not be restated for the sake of brevity.

31. Defendant, Upper Providence Township and its police department, as a matter of policy and practice failed to discipline, train, supervise or otherwise sanction police officers William Haines, Michael Langdale, David Montella and George Moore who have violated the rights of citizens, including the plaintiff's, thus encouraging defendant Officers William Haines, Michael Langdale, David Montella and George Moore in this case to engage in the unlawful and actionable conduct described above.

32. Defendants, Upper Providence Township and its police department as a further matter of policy and practice failed to train properly its police officers William Haines, Michael Langdale, David Montella and George Moore, with respect to the constitutional, statutory and departmental limits of their authority.

33. The defendant, Upper Providence Township and its Police Department were on actual notice of a need to train, supervise, discipline or terminate defendant officers William Haines, Michael Langdale, David Montella and George Moore,

prior to the incident in question, as other similar incidents have occurred in the past involving the above mentioned officers.

COUNT III
PLAINTIFF GRACE LAPHAN VS. OFFICERS WILLIAM HAINES, MICHAEL LANGDALE, DAVID MONTELLA AND GEORGE MOORE
DUTY TO INVESTIGATE

34. The foregoing paragraphs are incorporated in this Count but will not be restated for the sake of brevity.

35. The above defendants failed to take basic required investigative steps in connection with establishing probable cause that plaintiff, Grace Laphan, was the perpetrator of the criminal charges listed above when the above defendants knew that plaintiff was granted sole access to "the property" to prepare it for sale and could safeguard all personal property located on "the property" until said real property was sold per court order. Further, the above defendants were additionally notified numerous times by court personnel and the District Attorney's Office that plaintiff was able to safeguard all personal property per court order which did not amount to the probable cause necessary to charge the plaintiff with criminal misconduct.

36. Defendants failed to investigate basic evidence, or otherwise inquire if the plaintiff committed the crimes she was charged with before invoking the power of arrest and prosecution.

COUNT IV
PLAINTIFF GRACE LAPHAN VS. JOHN BURGY, OFFICERS WILLIAM HAINES, MICHAEL LANGDALE, DAVID MONTELLA AND GEORGE MOORE AND UPPER PROVIDENCE TOWNSHIP CONSPIRACY TO VIOLATE THE FEDERAL AND STATE CIVIL RIGHTS OF THE PLAINTIFF

39. The allegations contained above are incorporated herein as though fully set forth.

40. The above described actions constitute violations, by the above named defendants, who conspired among themselves to deprive the plaintiff of her state and constitutional rights particularly by conspiring against the plaintiff to falsify facts and criminal charges against her.

COUNT V
PLAINTIFF GRACE LAPHAN VS. JOHN BURGY, OFFICERS WILLIAM HAINES, MICHAEL LANGDALE, DAVID MONTELLA AND GEORGE MOORE MALICIOUS PROSECUTION

41. The foregoing paragraphs are incorporated in this Count but will not be restated for the sake of brevity.

42. The actions of defendants amount to a malicious prosecution under both 28 U.S.C. section 1983 and the Common Law of the State of Pennsylvania.

COUNT VI
PLAINTIFF GRACE LAPHAN VS. JOHN BURGY, OFFICERS WILLIAM HAINES, MICHAEL LANGDALE, DAVID MONTELLA AND GEORGE MOORE INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

43. The allegations contained above are incorporated herein as though fully set forth.

44. The above described illegal arrest and prosecution of the plaintiff constitutes an assault and battery by defendants, as a result of which plaintiff was injured and sustained severe and significant emotional distress including but not limited to

loss of sleep, loss of appetite, depression, inability to perform daily activities of work and life.

PLAINTIFF GRACE LAPHAN VS. JOHN BURGY, OFFICERS WILLIAM HAINES, MICHAEL LANGDALE, DAVID MONTELLA, GEORGE MOORE AND UPPER PROVIDENCE TOWNSHIP

DAMAGES

45. The above paragraphs are repeated and incorporated herein by reference as if set forth in full.

46. As a direct and proximate result of the defendants' conduct, plaintiff suffered physical pain and suffering in the past and future, severe mental anguish in the past and future and was deprived of her State and Federal Constitutional Rights as aforementioned, and will suffer economic damages and was otherwise damaged.

47. The plaintiff has suffered and will suffer in the future from permanent residuals.

48. As a direct and proximate result of the defendants' conduct, plaintiff was fired from her teaching position and lost her teaching credentialing.

ATTORNEY FEES

49. It was necessary for plaintiff to hire the undersigned attorney to file this lawsuit. Upon judgment, plaintiff is entitled to an award of attorney fees and costs under 42 U.S.C. § 1988 (b).

PRAYER

50. The above paragraphs are repeated and incorporate herein by reference as if set forth in full.

51. Plaintiff demands judgment against defendants William Haines, Michael Langdale, David Montella and George Moore individually, jointly and/or in the

alternative for: compensatory damages, punitive damages, attorney fees, interest and costs of suit and such relief as the Court may deem just and equitable.

52. Plaintiff demands judgment against defendant, Upper Providence Township, jointly and/or in the alternative for: compensatory damages, attorney fees, interest and costs of suit and such relief as the Court may deem just and equitable.

PLAINTIFF'S DEMAND FOR JURY TRIAL

53. Plaintiff asserts her rights under the Seventh Amendment to the U.S. Constitution and demands, in accordance with the Federal Rule 38, a trial by jury on all issues.

Respectfully submitted,

JOSEPH OXMAN, ESQUIRE
Attorney for Plaintiff

VERIFICATION

The undersigned hereby verifies that the within document is based on first-hand information and on information furnished to counsel and obtained by him in the course of this lawsuit. The language of the document is that of counsel and not of the affiant. To the extent that the contents of the document are based on information furnished to counsel and obtained by him during the course of this lawsuit, affiant has relied upon counsel in taking this verification. All statements are founded upon reasonable belief. This verification is made subject to the penalties of 18 Pa.C.S. Section 4904, relating to unsworn falsification to authorities.

PLAINTIFF